

SENATE BILL 62

By Beavers

AN ACT to amend Tennessee Code Annotated, Title 67,
Chapter 6, relative to the retail sale of food and
food ingredients.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Effective 12:01 a.m. on July 1, 2007, Tennessee Code Annotated, Section 67-6-228, is amended by deleting the section in its entirety and by substituting instead the following:

§ 67-6-228.

(a) Notwithstanding any provision of this part to the contrary, except as otherwise provided in subsection (c), the retail sale of food and food ingredients for human consumption shall be taxed at the rate of five and one-half percent (5.5%) of the sales price.

(b) Except as otherwise provided in the section, "food and food ingredients" means substances, whether in liquid, concentrated, solid, frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are consumed for their taste or nutritional value. "Food and food ingredients" does not include alcoholic beverages, tobacco, candy, or dietary supplements.

(c) The retail sale of the food and food ingredients sold as prepared food shall be taxed at the rate of tax levied on the sale of tangible personal property at retail by the provisions of § 67-6-202.

(d) For purposes of this section:

(1) "Candy" means a preparation of sugar, honey, or other natural or artificial sweeteners in combination with chocolate, fruits, nuts, or other ingredients or flavorings in the form of bars, drops, or pieces. Candy shall

not include any preparation containing flour and shall require no refrigeration;

(2) "Dietary supplement" means any product, other than tobacco, intended to supplement the diet that:

(A) Contains one or more of the following dietary ingredients:

(i) A vitamin;

(ii) A mineral;

(iii) A herb or other botanical;

(iv) An amino acid;

(v) A dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) A concentrate, metabolite, constituent, extract, or combination of any ingredient described above; and

(B) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or if not intended for ingestion in such a form, is not represented as conventional food and is not represented for use as a sole item of a meal or of the diet; and

(C) Is required to be labeled as a dietary supplement, identifiable by the "Supplement Facts" box found on the label and as required pursuant to 21 C.F.R. § 101.36;

(3) "Prepared food" means:

(A) Food sold in a heated state or heated by the seller;

(B) Two (2) or more food ingredients mixed or combined by the seller for sale as a single item; or

(C) Food sold with eating utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to transport the food. "Prepared food" in subdivision (d)(3)(B) does not include food that is only cut, repackaged, or pasteurized by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring cooking by the consumer as recommended by the Food and Drug Administration in Chapter 3, Part 401.11 of its Food Code so as to prevent food borne illnesses;

(4) "Alcoholic Beverages" means beverages that are suitable for human consumption and contain one-half of one percent (0.5%) or more of alcohol by volume; and

(5) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that contains tobacco.

SECTION 2. Effective July 1, 2008, Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the words, figures and symbols "at the rate of five and one-half percent (5.5%) of the sales price." and by substituting instead the following:

at the rate of five percent (5%) of the sales price.

SECTION 3. Effective July 1, 2009, Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the words, figures and symbols "at the rate of five percent (5%) of the sales price." and by substituting instead the following:

at the rate of four and one-half percent (4.5%) of the sales price.

SECTION 4. Effective July 1, 2010, Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the words, figures and symbols "at the rate of four and one-half percent (4.5%) of the sales price." and by substituting instead the following:

at the rate of four percent (4%) of the sales price.

SECTION 5. Effective July 1, 2011, Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the words, figures and symbols "at the rate of four percent (4%) of the sales price." and by substituting instead the following:

at the rate of three and one-half percent (3.5%) of the sales price.

SECTION 6. Effective July 1, 2012, Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the words, figures and symbols "at the rate of three and one-half percent (3.5%) of the sales price." and by substituting instead the following:

at the rate of three percent (3%) of the sales price.

SECTION 7. Effective July 1, 2013, Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the words, figures and symbols "at the rate of three percent (3%) of the sales price." and by substituting instead the following:

at the rate of two and one-half percent (2.5%) of the sales price.

SECTION 8. Effective July 1, 2014, Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the words, figures and symbols "at the rate of two and one-half percent (2.5%) of the sales price." and by substituting instead the following:

at the rate of two percent (2%) of the sales price.

SECTION 9. Effective July 1, 2015, Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the words, figures and symbols "at the rate of two percent (2%) of the sales price." and by substituting instead the following:

at the rate of one and one-half percent (1.5%) of the sales price.

SECTION 10. Effective July 1, 2016, Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the words, figures and symbols "at the rate of one and one-half percent (1.5%) of the sales price." and by substituting instead the following:

at the rate of one percent (1%) of the sales price.

SECTION 11. Effective July 1, 2017, Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the words, figures and symbols "at the rate of one percent (1%) of the sales price." and by substituting instead the following:

at the rate of one-half of one percent (0.5%) of the sales price.

SECTION 12. Effective July 1, 2018, Tennessee Code Annotated, Section 67-6-228(a), is amended by deleting the subsection in its entirety and by substituting instead the following:

(a) Except as otherwise provided by subsection (c), the retail sale of food and food ingredients for human consumption shall be exempt from state tax levied by this part on the sale of personal property at retail; provided, however, notwithstanding the provisions of any law to the contrary, any county or incorporated city or town, exercising its option to impose local taxes pursuant to § 67-6-702(a), may levy or continue to levy such local option tax on retail sales of food and food ingredients for human consumption. It is the legislative intent that local option sales taxes, collected pursuant to the provisions of § 67-6-702(a), shall not be affected by the provisions of this act.

SECTION 13. It is the legislative intent that implementation of the Streamlined Sales Tax Agreement within this state shall not amend or otherwise affect tax rates established or authorized pursuant to the provisions of this act.

SECTION 14. This act shall take effect upon becoming a law, the public welfare requiring it.